



Appeal Decision

Site visit made on 13 December 2021

by Alison Partington BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th January 2022

Appeal Ref: APP/R0660/D/21/3277028

4 Tewkesbury Close, Middlewich, Cheshire, CW10 9HT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Ben Sharpe against the decision of Cheshire East Council.
 - The application Ref 21/0332C, dated 21 January 2021, was refused by notice dated 22 March 2021.
 - The development proposed is the installation of a fence: concrete posts and timber fence panels between two properties to the boundary line.
-

Decision

1. The appeal is allowed and planning permission is granted for the installation of a fence: concrete posts and timber fence panels between two properties to the boundary line at 4 Tewkesbury Close, Middlewich, Cheshire CW10 9HT in accordance with the terms of the application, Ref 21/0332C, dated 21 January 2021, subject to the following condition:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan; Site Plan; Elevation of fence installed; Previous boundary treatment plan; and Current Boundary Treatment Plan.

Procedural Matters

2. The fence has already been erected at the property and I have determined the appeal on this basis.
3. The appellant has questioned whether the condition removing the permitted development rights on the original application for the estate is still lawful / enforceable. Whether or not this is the case is not a matter for me to determine in the context of an appeal made under section 78 of the Town and Country Planning Act 1990. I have therefore determined the appeal on the basis of the development as applied for.
4. Third parties have stated that the fence is contrary to covenants in the house deeds. However, I can see no reason why an approval of planning permission would negate or supersede any such legal matters. In determining the appeal I have only had regard to the planning merits of the case.

Main Issue

5. The main issue in the appeal is the effect of the fence on the character and appearance of the area.

Reasons

6. The appeal property is a detached dwelling on an estate that comprises a mix of houses and bungalows. Vegetation in the gardens of the dwellings as well as the small grassed area near the junction of Tewkesbury Close and Glastonbury Drive give the locality a green character. The fence runs along the common boundary of the property with No 6, and is mainly 2m in height but reduces diagonally down to 1m in the panel adjacent to the pavement. The front boundary of the property remains open.
7. Boundary treatments in the area vary. Whilst many front boundaries are open, others are enclosed – mainly by hedges of varying heights, but with low walls and railings also evident. The height of hedges along Glastonbury Drive in particular, create a strong sense of enclosure.
8. Similarly, a variety of boundary treatments are found along the side boundaries between properties. Whilst nearer the highway such boundaries are often vegetated this is not always the case such as the fences between Nos 25-29 Tewkesbury Close.
9. Moreover, the layout of the estate means that a number of properties have their rear or side boundaries abutting the highway. To provide privacy to the rear gardens these are often marked by high fences. Whilst these are sometimes set back a little way from the pavement, by grassed or landscaped areas the fences are still clearly visible and form part of the street scene.
10. The concrete post and wooden panel fence is typical of fences found in residential settings, and I saw many similar fences in the immediate vicinity. Moreover, given that high fences, albeit often enclosing side or rear gardens are part of the street scene, and the degree of enclosure of some front gardens the fence does not appear an incongruous or discordant feature that is out of character with the surrounding area.
11. The fence is readily visible, especially when approaching the site from Glastonbury Drive. However, in these views the fence is seen against the backdrop of a hedge of a similar height between No 6 and No 8, and by the houses that are Nos 6 - 10 which due to the stagger in the siting of the properties at this point project beyond the front elevation of No 4 by some distance. These features all reduce the prominence of the fence. When travelling in the other direction along Tewkesbury Close, views of the fence are restricted to the short range, and it does not appear overly dominant.
12. All in all, I am satisfied that the fence does not cause unacceptable harm to the character and appearance of the area. As such, there is no conflict with Policy SE1 of the Cheshire East Local Plan Strategy (adopted July 2017), which amongst other things, requires that developments protect and enhance the quality, distinctiveness and character of settlements. Nor would it be contrary to paragraph 130 of the National Planning Policy framework, which requires that developments are sympathetic to local character.

Other Matters

13. Third parties have raised objection to the tarmacking of the frontage of the house which was undertaken at the same time as the fence was erected. However, this does not form part of the application that is the subject of this appeal and so is not a matter for me to consider.

14. Whilst concerns have been raised with regard to impact of the fence on highway and pedestrian safety, the Council's highway engineers consider visibility is no worse than with the hedge that was previously located along the boundary. This is a conclusion with which I agree. Whilst the fence is visible from the windows on No 6 closest to that boundary, its height and the distance to it from the window is sufficient to ensure it does not have an overbearing impact, or unacceptably reduce the light to, or outlook from, this house.

Conclusion and Conditions

15. For the reasons set out above, I conclude the appeal should be allowed. As the development has already been completed, some of the conditions suggested by the Council are not necessary, but to provide certainty it is necessary to define the plans with which the scheme should accord.

Alison Partington

INSPECTOR